

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

HEATH RUTHEFORD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:19-cv-03005-TWP-TAB
	)	
YVONNE A., et al.	)	
	)	
Defendants.	)	

**Order Screening Complaint and Directing Further Proceedings**

Plaintiff Heath Rutheford, an inmate at the Correctional Industrial Facility, brings this action pursuant to 42 U.S.C. § 1983 alleging that he has not received adequate medical care while housed at that facility. Because the plaintiff is a “prisoner” as defined by 28 U.S.C. § 1915A(c), this Court has an obligation under § 1915A(a) to screen his complaint before service on the defendants.

**I. Screening Standard**

Pursuant to 28 U.S.C. § 1915A(b), the Court must dismiss the complaint, or any portion of the complaint, if it is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief. In determining whether the complaint states a claim, the Court applies the same standard as when addressing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *See Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017). To survive dismissal,

[the] complaint must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face. A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.

*Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Pro se complaints such as that filed by the plaintiff are construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers. *Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015) (internal quotation omitted).

## II. Discussion

Mr. Rutheford alleges in his complaint that in May of 2019, he suffered a seizure causing him injuries. He contacted defendant Nurse Yvonne A., but she told him his condition was not serious and to stay in the dorm. Mr. Rutheford has also complained to defendants Dr. Yoko Savino and Nurse Tamera Smith about his seizure and his injuries, but they have ignored his complaints.

Based on the screening standard set forth above, Mr. Rutheford's claim that his complaints of having had a seizure and having injuries from that seizure were ignored **shall proceed** as a claim that defendants Yvonne A., Dr. Yoko Savino, and Nurse Tamera Smith exhibited deliberate indifference to his serious medical needs in violation of his Eighth Amendment rights.

Mr. Rutheford's equal protection claim is **dismissed**. While Mr. Rutheford asserts that he is a member of a "class" of patients – chronic care patients – he does not allege that he was discriminated against because of his membership in that class. *Herro v. City of Milwaukee*, 44 F.3d 550, 552 (7th Cir. 1995) (internal quotation omitted).

This summary of claims includes all of the viable claims identified by the Court. All other claims have been dismissed. If Mr. Rutheford believes that additional claims were alleged in the complaint, but not identified by the Court, he shall have **through September 16, 2019**, in which to identify those claims.

## III. Service of Process

The **clerk is directed** pursuant to Fed. R. Civ. P. 4(c)(3) to issue process to the defendants in the manner specified by Rule 4(d). Process shall consist of the complaint, applicable forms

(Notice of Lawsuit and Request for Wavier of Service of Summons and Waiver of Service of Summons), and this Order.

**IT IS SO ORDERED.**

Date: 8/30/2019

Distribution:

HEATH RUTHEFORD  
962545  
PENDLETON - CORRECTIONAL INDUSTRIAL FACILITY  
CORRECTIONAL INDUSTRIAL FACILITY  
Inmate Mail/Parcels  
5124 West Reformatory Road  
PENDLETON, IN 46064

Nurse Yvonne A.  
Medical Employee  
Correctional Industrial Facility  
5124 West Reformatory Road  
Pendleton, IN 46064

Dr. Yoko Savino  
Medical Employee  
Correctional Industrial Facility  
5124 West Reformatory Road  
Pendleton, IN 46064

Nurse Tamera Smith  
Medical Employee  
Correctional Industrial Facility  
5124 West Reformatory Road  
Pendleton, IN 46064



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TANYA WALTON PRATT, JUDGE  
United States District Court  
Southern District of Indiana